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U.S. BANKRUPTCY COUNT FOR THE DISTRICT OF ARIZONA

IN THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF ARIZONA

In re:) Chapter 11
LEASCO, INC., a California corporation,) No. 2-03-bk-21422-JMM
Debtor.) Adversary No. 2-04-ap-00089-JMM
FLAVIO TENORIO; JUAN TENORIO; FRANCISCO TENORIO; AURELIO TENORIO; and FILIBERTO TENORIO,)) MEMORANDUM DECISION RE
Plaintiffs, vs.) RULE 60 MOTION
LEASCO, INC., a California corporation; LEASCO HOLDINGS, INC., a California corporation; MANSFIELD COLLINS; and IVANIA PISKULICH,	
Defendants.	}

Mansfield Collins, one of the Defendants herein, has moved, pursuant to FED. R. CIV. P. 60(b) (made applicable to bankruptcy proceeding by FED. R. BANKR. P. 9024) to set aside the judgment entered on February 24, 2005. That judgment is final, as Mr. Collins did not appeal from it.

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Rule 60 Motion - Jurisdiction

During the course of that adversary proceeding, all parties (including Mr. Collins) removed all state and federal litigation between them to the bankruptcy court, and affirmatively consented to the bankruptcy court's jurisdiction to adjudicate all issues between them. Mr. Collins participated, though counsel, in all such proceedings, and never raised any jurisdictional objections at any time, nor did he or his counsel preserve any such issues nor appeal on such grounds. Accordingly, the Court finds and concludes that the arguments regarding improper jurisdiction have been waived.

Satisfaction of Judgment

Mr. Collins also argues that the court's ruling concerning the value of his fees in the criminal case was erroneous. This argument should have been made on a direct appeal, but instead Mr. Collins chose not to do so. Because this ground to set aside the judgment appears to be that the court made a mistake of fact or error of law, it would properly fall within the orbit of FED. R. CIV. P. 60(b)(1). Because such grounds must be brought within one year of the judgment (entered February 24, 2005), this ground is time-barred. The effort to label it as a 60(b)(4) "satisfaction" issue (not time-barred but required to be brought within a "reasonable" time) is misplaced.

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Settlement 1 2 3 Nor did the settlement between the Tenorio Brothers and the Trustee, affect, in a positive 4 or negative way, the judgment against Mr. Collins. The settlement was neutral as to him. Moreover, since the settlement order is currently on appeal (and has not been stayed), this court is without 5 6 jurisdiction to adjudicate controversies or issues concerning it. 7 For these reason, the Rule 60(b) motion shall be DENIED. 8 DATED: May 3, 2006 9 10 11 UNITED STATES BANKRUPTCY JUDGE 12 COPIES served as indicated below this 13 day of May, 2006, upon: 14 Mansfield Collins Terry A. Dake 15 Law Offices of Mansfield Collins Terry A. Dake, Ltd. 3055 Wilshire Blvd., #600 11811 N. Tatum Blvd., Ste. 3031 16 Los Angles, CA 90010 Phoenix, AZ 85028-1621 U.S. Mail and Fax (213-380-4820) Email tdake@cox.net Attorney for Trustee 17 Todd M. Sloan, Fletcher W. Paddison, and John J. Dawson, Booker T. Evans, 18 Malte L. Farnaes

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13	Judicial Assistant
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